

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Schools and Libraries Universal Service Support)	CC Docket No. 02-6
Mechanism)	

PETITION FOR WAIVER

Pursuant to sections 1.3 and 54.719 of the Commission’s rules, Frontier Communications Corporation (“Frontier”) hereby petitions for waiver of 47 C.F.R. § 54.514, which sets a deadline for E-Rate invoices 120 days after the last day to receive service and allows for only one 120-day extension. Despite successfully submitting invoices related to over 1,365 FCC Registration Numbers (“FRNs”) nationwide, Frontier submitted invoices related to a single FRN just four days late – an FRN associated with the Elk Grove Unified School District.¹ This four-day delay was the result of the extraordinary tripling in size of Frontier’s E-Rate operations following the April 1, 2016 closing of its purchase of Verizon’s wireline properties in California, Texas, and Florida, which approximately doubled the size of the company.² Not only did Frontier’s E-Rate operations triple in size, but the E-Rate transition process itself involved an incredibly manual exercise of having to convert the information in Verizon’s E-Rate systems into Frontier’s systems. Indeed, it was only through a herculean effort that Frontier’s team was able to submit invoices associated with all but one of the over 1,365 FRNs successfully, and it was these

¹ See page 3 below for the details related to the FRN at issue, FRN #2756566. Please also see Exhibits A & B, attached, for copies of the material that Frontier submitted and USAC’s denial.

² See *Frontier Communications Completes Acquisition of Verizon Wireline Operations in California, Texas and Florida*, BusinessWire (Apr. 1, 2016), <http://bit.ly/1W93G02>.

extraordinary circumstances that caused Frontier to be only four days late with the invoices associated with this single FRN.

Due to these extraordinary circumstances, Frontier requests that the Commission waive its rules under 47 C.F.R. § 54.514 and allow Frontier to submit these invoices associated with this single FRN. Failing to do so would unreasonably deny the Elk Grove Unified School District and Frontier critical E-Rate funding and would be contrary to the public interest.

I. BACKGROUND

Frontier Communications³ is proud to serve the Elk Grove Unified School District and its over 60,000 students across 65 schools as part of the E-Rate program. In Funding Year 2015, Frontier delivered over \$690,000 worth of services to Elk Grove Unified School District and its students. Due to the extraordinary circumstances associated with the tripling in size of Frontier's E-Rate operations, as described further below, Frontier inadvertently submitted a single group of invoices four days late. The deadline for these invoices were Monday, February 27, 2017. On Friday March 3, 2017, Frontier discovered that a single group of invoices had not been submitted and immediately submitted that group of invoices.⁴ These E-Rate invoices represent \$390,000 of the more than \$22 million in invoices that Frontier submitted nationwide.

³ In California, Frontier operates under several subsidiaries, including the subsidiary at issue here: Citizens Telecom of California.

⁴ See Exhibit 1.

The relevant information regarding the unpaid invoices is as follows:

SPIN #	143002646 (Citizens Telecom of California)
BEN #s	144549 (Elk Grove Unified School District)
471 #s	997989
FRN #s	2756566
Funding Year	2015
Schools and Libraries Division (“SLD”) Invoice #s	2547247

USAC denied these invoices on March 13, 2017.⁵ Frontier now files this Petition for Waiver.

II. DUE TO THE EXTRAORDINARY CIRCUMSTANCES SURROUNDING FRONTIER’S TRIPLING ITS E-RATE OPERATIONS AND THE CHALLENGES IN CONVERTING E-RATE SYSTEMS, GOOD CAUSE EXISTS TO ALLOW FRONTIER TO SUBMIT THESE INVOICES FOUR DAYS LATE.

Under the Commission’s well-established waiver standard, the Commission may waive any rule “for good cause shown.”⁶ While the Commission recently reformed its invoicing deadline rules and indicated in that decision that the Bureau should grant waiver of those rules only in “extraordinary circumstances,” the Commission never actually codified that guidance or otherwise altered the well-established waiver standard.⁷ In other words, the standard for waiver remains “good cause,” and the Commission provided further context for the types of situations where it believed, at that time, waiver of the invoicing rules was in the public interest.

⁵ See Exhibit 2.

⁶ 47 C.F.R. § 1.3.

⁷ See *Modernizing the E-Rate Program for Schools and Libraries*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 ¶ 240 (2014) (“*E-Rate Modernization Order*”).

Nonetheless, despite an apparently heightened waiver standard, the Commission’s reasoning behind when waiver of the invoicing rules is merited is instructive and shows that the Commission contemplated waiver in precisely the type of circumstances at issue here. Specifically, the FCC adopted the invoicing deadline rules against the backdrop of USAC and the Commission routinely granting extensions as a matter of course, sometimes “allow[ing] unlimited invoice extensions under certain circumstances.”⁸ The Commission explained that this practice created an administrative burden and that there should be a fixed deadline that all applicants should be able to meet except in very special circumstances.⁹ Thus, the Commission chose to allow providers 120 days to submit invoices and grant as a matter of right a single 120-day extension.¹⁰ As the Commission reasoned, there “may be circumstances beyond some . . . service providers’ control that could prevent them from meeting the 120-day invoice filing deadline.”¹¹ But in all but extraordinary circumstances – like those here – providers should be able to invoice within the time of the 120-day extension. Put differently, service providers ought not require more than 240 days except with significant and unusual challenges – like the extraordinary tripling in size of E-Rate operations.

Good cause and indeed extraordinary circumstances exist for Frontier to submit this single group of invoices four days late because Frontier undertook a significant and difficult tripling of its E-Rate operations as the company doubled in size. Specifically, on April 1, 2016,

⁸ *Id.* ¶ 242.

⁹ *Id.* ¶¶ 239-40.

¹⁰ *Id.*

¹¹ *Id.* ¶ 240.

Frontier purchased the wireline operations of Verizon in California, Florida, and Texas.¹² Not only did Frontier suddenly have about twice as many customers, but also, the size of its E-Rate operations grew by about three times. For example, for Funding Year 2015, Frontier invoiced \$22.7M overall, \$15.2M associated with the newly-acquired properties and \$7.6M associated with its existing properties.

While its E-Rate operations tripled, this only begins to illustrate the challenges Frontier faced converting E-Rate records and systems from Verizon to Frontier. Indeed, these challenges required the full 240 days for invoicing and an average of over 30 hours of overtime per week per employee for January and February 2017 to submit these invoices, in addition to significant overtime and work throughout 2016. The following are some of the key, but by no means all, of the extraordinary circumstances that Frontier navigated in submitting the invoices associated with all but one of the over 1,365 FRNs Frontier was responsible for invoicing.

First, Frontier had to manually disaggregate E-Rate invoices from the account level to the individual telephone number level so that they could be processed in Frontier's systems. Specifically, Verizon processed E-Rate invoices at the account level rather than the individual telephone number level, which Frontier's E-Rate systems require. Unfortunately, there can often be hundreds of telephone numbers associated with a single account, so this difference required a significant amount of manual effort.

Second, Frontier had to determine which FRN was associated with which Verizon account. In other words, while accounts automatically transferred over, the associated information for E-Rate invoicing purposes did not. Unfortunately, this too was a manual process

¹² See *Frontier Communications Completes Acquisition of Verizon Wireline Operations in California, Texas and Florida*, BusinessWire (Apr. 1, 2016), <http://bit.ly/1W93G02>.

sorting through paper forms in order to enter FRNs and associate them with accounts in Frontier's systems.

Third, Frontier also had to convert account numbers because Frontier's systems associate accounts based only on numeric account numbers and do not accept alphabetical or other characters. Again, unfortunately, the account numbers Frontier received from Verizon were alphanumeric and often had letters that could not be accepted. Again this was a manual and very time consuming process.

Fourth, in order to set up orders in Frontier's systems and actually apply discounts, Frontier had to manually enter in a discount for each and every telephone number. This information could not be transferred automatically.

Fifth, Frontier had to manually ensure that Verizon product codes matched Frontier product codes. For example, Verizon's high speed internet service or its centrex service is coded one way in Verizon's system while it must be coded another way in Frontier's system. Due especially to individualized contracts and products, this was an exercise involving tens to hundreds of thousands of products. Frontier then had to ensure the products were coded correctly for eligible discounts.

Sixth, the E-Rate Modernization Order made certain products ineligible starting in Funding Year 2015.¹³ Frontier had to manually review and update the records it received based on this Order to ensure compliance.

Seventh and finally, Frontier substantially expanded its California operations, and the same team working on E-Rate had to comply with greatly expanded California Teleconnect Fund operations. The California Teleconnect Fund actually has a substantially broader eligible base

¹³ See generally *E-Rate Modernization Order*.

than E-Rate, and Frontier has many more entities and accounts associated with the California Teleconnect Fund than with E-Rate in California. Frontier had to manually and individually look up these application numbers at the California Public Utilities Commission's website because it was unable to otherwise obtain documentation.

As this series of hurdles illustrates, Frontier faced extraordinary circumstances in its service provider invoicing this year – which directly caused Frontier to miss the invoices associated with this single FRN. Due to these delays and challenges, Frontier had to manually remit almost \$13 million in invoices during the month of February associated with California. And because it usually takes a month to cycle through USAC's and Frontier's systems, which provides a check to ensure all invoices have been submitted, the invoices associated with this single FRN was missed.

The good news is that all the legwork in converting these systems has been achieved, and Frontier expects a much smoother process going forward. Unfortunately, and understandably based on these extraordinary circumstances, Frontier was four days late submitting these invoices associated with this single FRN.

While Frontier understands the importance of program certainty and deadlines, these events represent extraordinary circumstances, and Frontier made every effort to meet the program deadlines. Frontier researched hiring additional employees or contractors, but because E-Rate is so complex and the associated requisite systems so technical, it was too difficult and would have taken too long to make a meaningful difference. Even for the three employees that came over from Verizon to Frontier that already worked on E-Rate, it still required four weeks of full time training and six weeks of very hands-on on-the-job training to ensure the team was

appropriately trained. Instead, Frontier’s team worked significant overtime, including over 30 hours of overtime per week per person in January and February.

Failing to grant this waiver would be contrary to the public interest and an especially harsh penalty. Frontier, like other carriers, has no choice but to provide service provider invoicing under E-Rate rules if a customer elects it. A draconian penalty of \$390,000 for being four days late when undergoing a transition of this size would be entirely disproportionate. As the Commission has long recognized, as long as there is no evidence of a misuse of funds, “rigid adherence to certain E-Rate rules and requirements that are ‘procedural’ in nature does not promote the goals of section 254 of the [Telecommunications] Act . . . and therefore does not serve the public interest.”¹⁴ The same is true here – Frontier provided the services according to program rules, and due to the extraordinary transition, it was a mere four days tardy on the invoices associated with a single FRN. Indeed, if the Commission imposes these types of draconian penalties for simple procedural errors, it may very well deter carrier participation in this program – already, the costs of participation are very high. Even if the Commission elected a fixed percentage penalty per day – e.g., 0.25% per day – it would be more in the public interest and better serve the Commission’s interest in program efficiency and certainty than a draconian cut-off.

¹⁴ *Request for Review of the Decision of the Universal Service Administrator by Adams County School District 14, et al., Schools and Libraries Universal Service Support Mechanism*, Order, 22 FCC Rcd 6019, ¶ 10 (2007); *see also Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School*, 21 FCC Rcd 5316 ¶¶ 2, 9 (2006).

III. CONCLUSION

For the foregoing reasons, Frontier requests the FCC waive the invoicing deadline under 47 C.F.R. § 54.514 and direct USAC to process the relevant invoices that Frontier submitted. As Frontier has shown, Frontier underwent an extraordinary tripling in size of its already large E-Rate operations, and good cause exists to waive the invoicing deadline by four days.

Respectfully submitted,

FRONTIER COMMUNICATIONS

/s/ AJ Burton

AJ Burton
FRONTIER COMMUNICATIONS
1800 M Street, NW, Suite 800N
Washington, D.C. 20036

April 25, 2017

CERTIFICATE OF SERVICE

This is to certify that on this 25th day of April, 2017, a true and correct copy of the foregoing Request for Review and Petition for Waiver was sent via email to:
Schools and Libraries Division, Universal Service Administrative Company,
Appeals@sl.universalservice.org

/s/ AJ Burton

Exhibit 1

SRH	Renee Serino	renee.serino@ftr.com	5706315054			
HDR	CTC of CA	143002646	Renee Serino	5706315054		
DTL		2756566	MONTHLY	062016	2756566elk	03032017
TRL	997989	1			649150.40	389490.24
SPT	389490.24	1				60

Exhibit 2

143002646|CITIZENS TELECOMM CO OF
CA|erate.administration@ftr.com|usacstatement@universalservice.org|2|\$2,5
43.68|Schools And Libraries|As of March 13, 2017
SPI|143002646|2756566elk|2756566|"SLD Invoice Number:2547247;Line Item
Detail Number:8496851;Amount Requested:389490.24;Invoice Received Date
[03/09/2017] Later Than FCC Extension Date [02/27/2017];80;"|062016|\$0.00
SPI|143002646|931-03072017|1699026971|"SLD Invoice Number:2547248;Line
Item Detail Number:8496852;Amount Requested:2543.68;"|062017|\$2,543.68

Your Total Actual Disbursement: \$2,543.68.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Request for Review of a Decision of the Universal)	CC Docket No. 02-6
Service Administrator)	

DECLARATION OF JESSICA MATUSHEK

I, Jessica Matushek, declare under penalty of perjury under the laws of the United States of America as follows:

1. My name is Jessica Matushek. My business address is 100 CTE Drive, Dallas, PA 18612. I am employed as Director-Accounting at Frontier Communications. My organization handles E-Rate accounting and invoicing to USAC.

2. I have reviewed the foregoing Petition for Waiver and confirm that it is a true and correct version of the relevant events to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: April 24, 2017



Jessica Matushek

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Request for Review of a Decision of the Universal) CC Docket No. 02-6
Service Administrator)

DECLARATION OF DENISE MCINTOSH

I, Denise McIntosh, declare under penalty of perjury under the laws of the United States of America as follows:

1. My name is Denise McIntosh. My business address is 115 E Bow Street, Thorntown, IN 46071. I am employed at Frontier Communications as a Supervisor of Customer Service. My organization handles the interface between E-Rate customers and the accounting team and is responsible for E-Rate contracts and E-Rate customer relationships. In particular, my organization was primarily responsible for the incredibly manual conversion of Verizon E-Rate systems and contracts to the Frontier system.

2. I have reviewed the foregoing Petition for Waiver and confirm that it is a true and correct version of the relevant events to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: April 24, 2017



Denise McIntosh